

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CHRISTOPHER FREITICK,**     )  
  )  
      **Plaintiff,**                    )  
  )  
                      **v.**                )  
  )  
      **SMS RAIL LINES,**            )  
  )  
      **Defendant.**                    )

**CIVIL ACTION  
NO. 09-cv-1414**

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**ORDER**

**AND NOW**, this 17<sup>th</sup> day of September 2010, upon review and consideration of Defendant's Motion for Summary Judgment [docket entry No. 22], Plaintiff's Response to Defendant's Motion for Summary Judgment [docket entry No. 25], Defendant's Reply [docket entry No. 26], and for reasons set forth in the attached Memorandum Opinion, it is hereby **ORDERED** that Defendants' Motion is **DENIED**.

It is further **ORDERED** that Defendant's Request for Oral Argument [docket entry No. 27] is **DISMISSED as MOOT**.

It is so **ORDERED**.

**BY THE COURT:**

/s/ Cynthia M. Rufe

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**CYNTHIA M. RUFÉ, J.**